TELECOMMUNICATIONS/Cable Box Competition

SUBJECT: Telecommunications Competition and Deregulation Act of 1995 . . . S. 652. Cohen/Snowe amendment No.

1263.

ACTION: AMENDMENT REJECTED, 30-64

SYNOPSIS: As reported, S. 652, the Telecommunications Competition and Deregulation Act of 1995, will amend telecommunications laws and reduce regulations in order to promote competition in the telecommunications industry by eliminating barriers that prevent telephone companies, cable companies, and broadcasters from entering one another's markets. It will also permit electric utilities to enter the cable and telephone markets. Judicial control of telecommunications policy, including the "Modified Final Judgment" regime, will be terminated.

The Cohen/Snowe amendment would require the Federal Communications Commission (FCC) to adopt regulations that would make addressable converter boxes (cable, or set-top, boxes) competitively available. (Currently, cable companies require the use of their cable boxes). The regulations would expire when the FCC determined that a competitive market had been created among manufacturers, retailers, and other vendors that were not owned or affiliated with cable companies.

Those favoring the amendment contended:

This amendment is a pro-consumer, pro-competition amendment that is focused on one very narrow problem--cable set-top boxes. Cable companies use these boxes to scramble or block the signals that their customers have not purchased. The boxes, which usually sit on top of the customers' televisions, are provided by the cable companies. Many companies charge their customers for the rent of these boxes, and forbid the use of any other boxes. Companies insist that they cannot allow competition for the sale or rental of set-top boxes because the result would be theft of their signals. We heard the same claim from telephone companies decades ago. They said that they could not provide phone service through any phone that they did not make because they could not control the theft of the signal. Congress disagreed, and opened the market to competition. Now anyone can go into a retail outlet and select from dozens of different models of telephones, and none of those phones makes it possible for anyone to receive phone service for free.

(See other side)

YEAS (30)		NAYS (64)			NOT VOTING (5)	
Republicans	Democrats (18 or 40%)	Republicans (37 or 76%)		Democrats (27 or 60%)	Republicans	Democrats
(12 or 24%)					(4)	(1)
Ashcroft Chafee Cohen Hatfield Hutchison Jeffords Kassebaum Roth Simpson Snowe Thompson Thurmond	Boxer Bradley Bumpers Byrd Feingold Feinstein Glenn Graham Kerrey Lautenberg Leahy Levin Lieberman Moseley-Braun Pell Rockefeller Simon Wellstone	Abraham Bennett Bond Brown Burns Campbell Coats Cochran Coverdell Craig D'Amato DeWine Dole Domenici Faircloth Frist Gorton Grams	Grassley Gregg Hatch Helms Inhofe Kempthorne Kyl Lott Lugar McConnell Murkowski Nickles Packwood Pressler Santorum Smith Specter Thomas Warner	Akaka Baucus Bingaman Breaux Bryan Conrad Daschle Dodd Dorgan Exon Ford Harkin Heflin Hollings Inouye Johnston Kennedy Kerry Kohl Mikulski Moynihan Murray Nunn Pryor Reid Robb Sarbanes	1—Offic 2—Nece 3—Illne: 4—Othe SYMBO AY—Ar	NATION OF ABSENCE bial Buisiness biassarily Absent ss r LS: Innounced Yea Innounced Nay ired Yea

VOTE NO. 245 JUNE 8, 1995

The greater selection and lower prices that have resulted from competition in the sale of telephones has been a great benefit for consumers. The same can be done for cable boxes. Currently, technology already exists for protecting analog signals, and protection for digital signals is not far behind. The Cohen/Snowe amendment would not require the adoption of any particular standard; it would simply order the cable companies to come up with a common standard so that competition could exist in the provision of set-top boxes. For example, the industry could use an electronic card system similar to that used by automatic bank tellers. This amendment is very reasonable, and very narrow, and deserves our support.

Those opposing the amendment contended:

We must reluctantly oppose this amendment. We ordinarily would support an amendment that is intended to open up a market to further competition, but in this case we cannot because we feel that this particular amendment would actually prove harmful to competition. First, technology in the telecommunications industry is changing extremely rapidly. If we require the FCC to adopt regulations on industry standards, those regulations will prove to be a drag on efforts to introduce new technologies. Second, current law already forces cable companies to provide these boxes at cost, and this bill will not change this requirement. Third, competition from direct broadcast satellites, phone companies, and other sources will make sure the industry is reasonable in its set-top box rates. Fourth, and most importantly, our colleagues underestimate the need of cable companies to use set-top boxes. All of a cable company's programming is carried on every cable going to every subscriber. The circuitry in each set-top box determines which of those signals will be unscrambled. Customers boxes are programmed to unscramble the services for which they pay. The cable companies themselves are not particularly pleased with this arrangement because dishonest entrepreneurs have learned to alter boxes to unscramble signals. The resulting losses for companies from stolen signals are enormous. Cable companies are trying desperately to come up with an alternative to using boxes, but so far none of the technologies, whether credit card systems, negative traps, or any other effort, has proven successful. If Congress were to order cable companies to allow anyone to manufacture set-top boxes when no safer system for protecting signals from theft exists, the likely result will be a massive increase in the rate of theft. Cable companies will be put at an extreme competitive advantage. In other words, this amendment would do less to create competition than it would to facilitate theft, and in the process it could destroy the cable industry. This result does not meet our definition of increasing competition. Therefore, we oppose this amendment.